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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,005	10/07/2003	Richard N. Claytor	FRSN001US0	6644
37141	7590	12/14/2004	EXAMINER	
FORTKORT GRETHER + KELTON LLP 8911 N. CAPITAL OF TEXAS HWY. SUITE 3200 AUSTIN, TX 78759			SUGARMAN, SCOTT J	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/681,005	CLAYTOR
	Examiner	Art Unit
	Scott J. Sugarman	2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-13 and 30-49 is/are allowed.
- 6) Claim(s) 14, 18, 21-25, 29, 50 and 51 is/are rejected.
- 7) Claim(s) 15-17, 19, 20 and 26-28 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1-8-04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14, 18, 21, 22, 29, 50 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Hilbert (US 4,293,196, of record). Hilbert teaches an imaging system having first and second plastic (col. 1, lines 63-65) Fresnel lens elements (any two; 12, 14, 16) in optical communication with each other; where, when taking into account the Fresnel surfaces and aspherics (Tables 1-3), they each can have positive power. The lenses are disposed in a housing barrel (col. 7, lines 45-52). Although claim 14 recites “an infrared imaging device, there are no structural limitations that distinguish Hilbert from the recited claims. Limitations from the specification cannot be read into the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilbert. Hilbert is applied for reasons set forth against claim 14, but does not specifically teach the recited lens materials. However, Hilbert suggests that other types of plastic materials can be used for the lens materials (col. 7, lines 49-52). Therefore, it would have been obvious to one of ordinary skill in the art to provide the lenses of Hilbert as high density polyethylene, since Hilbert suggests that other plastics can be utilized.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 is indefinite, since it depends upon itself.

### ***Allowable Subject Matter***

Claims 1-13 and 30-49 are allowed.

Claims 15-17, 19, 20 and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or suggest first and second plastic lens elements, each of the lens elements having a first major surface which is convex and a second major surface which comprises a Fresnel surface.

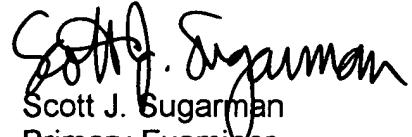
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee is cited to show an IR system having two Fresnel arrays. Ogino et al is cited to show a lens system having two positive Fresnel lens elements in optical communication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott J. Sugarman whose telephone number is (571)272-2340.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Scott J. Sugarman  
Primary Examiner  
Art Unit 2873

sjs  
December 9, 2004